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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|-------------------|
| 10/635,613 | 08/07/2003 | Peter A. Krauss | 010408.52554US | 9614 |
| 23911 | 7590 | 07/26/2006 | EXAMINER | |
| CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300 | | | | CRIBBS, MALCOLM D |
| ART UNIT | | PAPER NUMBER | | |
| | | 2115 | | |

DATE MAILED: 07/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/635,613 | KRAUSS, PETER A. |
| | Examiner | Art Unit |
| | Malcolm D. Cribbs | 2115 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 24 May 2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 12-30 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 12-20 is/are allowed.

6) Claim(s) 21-30 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 04/14/04.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .
5) Notice of Informal Patent Application (PTO-152)
6) Other: ____ .

DETAILED ACTION

Claims 1-11 were canceled.

5 Claims 12-30 are presented for examination.

Claims 12-20 are allowed.

Claim Rejections - 35 USC § 112

10 The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

15 **Claim 23** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite
for failing to particularly point out and distinctly claim the subject matter which applicant
regards as the invention.

Claim 23 recites the limitation "said first memory" in the 7th line of claim 21.

20 There is insufficient antecedent basis for this limitation in the claim. It is unclear unto
which "first memory" the applicant intends; whether the "first memory" is the first data
memory or the first volatile working memory.

Claim 23 recites the limitation "said boot" in 8th line of claim 23. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

5 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

10 **Claims 21-22** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 21 is not limited to tangible embodiments. The applicant is claiming a data structure wherein the data structure is not limited to tangible embodiments. As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

15 **Claims 23-30** are rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility. As per claim 21, the applicant claims four separate memories. However, there is no utility, no action being executed, with the claimed memories as in claim 12. As such, the claim is inoperative and therefore lacks 20 utility.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Malcolm D. Cribbs whose telephone number is 571-272-25 5689. The examiner can normally be reached on M-F 8AM-430PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Lee can be reached on 571-272-3667. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

- 5 Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic
- 10 Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Malcolm D Cribbs
Examiner
Art Unit 2115

15 July 20, 2006



THOMAS LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100